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**McDERMOTT, WILL & EMERY**

June 18, 2003

Marlene H. Dortch, Esq.  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

**Re: 800 MHz Public Safety Rulemaking, WT Docket No. 02-55**

**Ex Parte Submission of Westar Energy, Inc.**

Dear Ms. Dortch:

We represent Westar Energy, Inc., an electric utility in Kansas that has a strong interest in the 800 MHz Public Safety Rulemaking (WT Docket No. 02-55). Specifically, Westar is highly concerned that its radio systems, which operate in large part on the 900 MHz band, will be subject to significant Nextel-generated interference if Nextel commences operations at 900 MHz as part of the Consensus Plan or a similar rebanding plan. Accordingly, Westar urges the Commission to enact certain technical and operational rules for the 900 MHz band if it adopts a plan that would result in Nextel operating in that band.

Westar's position in this matter is fully set forth in the attached outline. In brief, Westar is the largest electric utility in Kansas. To safely and efficiently maintain its generating facilities and approximately 35,000 miles of transmission and distribution lines, Westar operates extensive radio systems. To that end, Westar holds sixty 900 MHz licenses. Given that Nextel is known to cause interference in the 800 MHz band, it is very likely that it will cause interference at 900 MHz. Thus, if the Commission adopts the Consensus Plan or a similar rebanding plan that would result in Nextel commencing operation at 900 MHz, it must implement technical and operational rules designed to

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alleviate the threat of interference. Such rules could be modeled after the rules recommended in the "Balanced Approach," filed by the 800 MHz User Coalition on May 29, 2003.

Thank you for your attention to this matter. If you would like any further information regarding Westar's position, please do not hesitate to contact me.

Very truly yours,

*/s/ Shirley S. Fujimoto*

Shirley S. Fujimoto

cc: Chairman Michael K. Powell  
Commissioner Kathleen Q. Abernathy  
Commissioner Michael J. Copps  
Commissioner Kevin J. Martin  
Commissioner Jonathan S. Adelstein  
John Muleta, Chief of the WTB  
Edmond Thomas, Chief of OET

# **WESTAR ENERGY, INC.**

## **Ex Parte Submission**

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### **In the Matter of Improving Public Safety Communications in the 800 MHz Band**

**WT Docket No. 02-55**

**June 18, 2003**

#### **Synopsis:**

Westar Energy, Inc. is concerned that adopting Nextel Communications' "Consensus Plan" or a similar rebanding plan would result in Nextel bringing its interference-causing CMRS system to 900 MHz for at least three years, the time required to implement rebanding. Due to the relatively small size of the 900 MHz band and its band plan (Business, Industrial/Land Transportation, and SMR are interleaved), it is very likely that if Nextel operates the same type of system at 900 MHz that it currently operates at 800 MHz, the interference it is causing at 800 MHz will be duplicated at 900 MHz. Accordingly, if the Commission adopts the Consensus Plan or a similar rebanding plan, it should implement new technical and operational rules designed to alleviate the threat of interference to 900 MHz licensees.

#### **I. BACKGROUND OF WESTAR ENERGY**

- Largest electric utility in Kansas.
- Provides electricity to approximately 647,000 customers on a retail basis and 62 Kansas cities and 4 rural electric cooperatives on a wholesale basis.
- Employs approximately 2,000 persons and operates approximately 35,000 miles of electric transmission and distribution lines.
- Operates extensive private land mobile radio systems on the 72-76, 450-470, and 900 MHz bands. Holds sixty 900 MHz licenses.
- Relies on its private land mobile radio systems for numerous purposes, including ensuring the safety of crews working on power lines and safely and efficiently operating its power generation, transmission, and distribution facilities.

## **II. THE COMMISSION MUST IMPLEMENT TECHNICAL AND OPERATIONAL RULES DESIGNED TO PROTECT 900 MHz LICENSEES**

- If the Commission adopts the Consensus Plan or a similar rebanding plan, Nextel has indicated that it will commence operation of a dual-band 800/900 MHz CMRS system during implementation of the plan, which is expected to take at least three years.
- Nextel filed Reply Comments in this docket on February 25, 2003 acknowledging that operation of its system in the 900 MHz band could cause interference to 900 MHz licensees (pp. 26-27). It stated, however, that it will be better able to manage the factors that foster interference because it "will use 900 MHz as an adjunct to its existing 800 MHz infrastructure."
- Westar is not reassured by Nextel's attempt to minimize the potential impact of its operations on the 900 MHz band. The 900 MHz band is similar to the 800 MHz band in that Business, Industrial/Land Transportation, and SMR channels are interleaved. However, the 900 MHz band is only 5 MHz (paired) and thus has no room for guard bands to protect licensees from Nextel's operations. Westar is concerned that if Nextel operates its system in the 900 MHz band in the same manner as it does in the 800 MHz band, it is very likely that it will cause interference to other licensees such as Westar. Thus, Westar is filing this ex parte submission to voice its concerns.
- The Consensus Plan does not contemplate any technical or operational rules to mitigate Nextel-generated interference at 900 MHz. Thus, its operations could disrupt communications of utilities and other 900 MHz licensees. While any interference to a utility's communications would be bad, it could be extremely dangerous if, for example, it occurs while a utility employee is working on a power line. It could also be very serious if, for example, a disruption prevented a utility crew from restoring power on a timely basis at an accident scene or during a natural disaster.
- Knowing that Nextel has caused interference in the 800 MHz band provides the FCC with advance knowledge that, if allowed to operate in the same manner at 900 MHz, Nextel will cause the same type of interference in the 900 MHz band. The FCC cannot knowingly facilitate the imposition of interference upon utilities and other licensees in the 900 MHz band.
- If the FCC adopts the Consensus Plan or a similar plan, it must implement technical and operational rules designed to alleviate the threat of interference to 900 MHz licensees. In any event, the FCC should act to ensure that Nextel is not permitted to duplicate at 900 MHz the interference its system is generating at 800 MHz. Procedural and technical rules comparable to those outlined in the "Balanced Approach" filed by the "800 MHz User Coalition" on May 29, 2003, should be adopted for the 900 MHz band.